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No. 81-2336

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1981

KARL LINNAS

Petitioner

v.

OFFICE OF SPECIAL INVESTIGATIONS
UNITED STATES DEPARTMENT OF JUSTICE

Respondent

MOTION FOR LEAVE TO FILE AND A BRIEF OF THE AMERICAN EAST EUROPEAN ETHNIC CONFERENCE AS AMICUS CURIAE IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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Ethnic Conference

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Pursuant to Rule 36 of the Supreme Court Rules, the American East European Ethnic Conference respectfully moves for leave to file the attached brief as Amicus Curiae in support of the petitioner.Counsel for the petitioner has consented to the filing of this brief.

STATEMENT OF INTEREST OF AMICUS CURIAE AMERICAN EAST EUROPEAN ETHNIC CONFERENCE

The American East European Ethnic Conference (AEEEC) is a coordinating organization for the following ethnic organizations in the United States:

1. Bulgarian National Front in the U.S.A.
2. Czechoslovak National Council of America
3. Estonian American National Council
4. Coordinating Committee of Hungarian Organizations in North America
5. American Latvian Association in the U.S.A., Inc.
6. Lithuanian American Council,Inc.
7. Polish American Congress, Inc.
8. Congress of Russian-Americans, Inc.

9. Ukrainian Congress Committee of America, Inc.

The AEEEC is primarily concerned with matters related to forcible Soviet occupation or domination of their native countries. The organization collects information on the situation under Soviet rule and represents the interests of its member organizations in opposing Soviet oppression in the countries concerned, including the Soviet tactics of disinformation, forgery, penetration and espionage directed against the East European communities in the United States.

Thus, the interest of AEEEC and its members and the entire East European community in the United States in the outcome of litigation, where Soviet involvement has been clearly demonstrated, is second to none, except the individual accused.

Amicus Curiae has examined the language of the pertinent legislation and the briefs and transcrips of the proceedings in this case. Amicus Curiae does not believe that the parties have considered all the issues before this court.

Amicus Curiae, therefore, requests that this Court grant it leave to file the attached brief.

Respectfully submitted,

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THE STATUTES INVOLVED

The action to revoke the citizenship of the petitioner was commenced pursuant to the Immigration and Nationality Act of 1952 as amended, 8 U.S.C. Paragraph 1451(a) which provides for denaturalization for ordering, inciting, assisting or otherwise participating in the persecution of persons

because of race, religion, national origin, or political opinion between March 23,1933 and May 8,1945 under the direction or in association with the Nazi government in Germany.

Amicus Curiae contends that this recent (1978) retroactive amendment to the statute is highly discriminatory and unfair to the petitioner since this statute has no similar provisions to cover persecution or other similar acts performed with or in association with the Soviet government from 1917 to present, or that such acts by the Soviets show any less "moral turpitude." The statute also completely neglects similar acts performed under other governments in the world today and only seeks punishment for events which took place 40 years ago.

The Government has also invoked the provisions of the 1948 Displaced Persons

Act which excluded individuals who can be shown:

a. to have assisted the enemy in persecuting civil; populations of countries,Members of the United Nations; or

b. to have voluntarily assisted the enemy forces since the outbreak of the Second World War in their operations against the United Nations.

Amicus Curiae contends that the petitioner was a citizen of the Republic of Estonia, which is still recognized by the United States, until his naturalization as a U.S. citizen in February, 1960. The Republic of Estonia, at the time in question, was not in war with Germany and the petitioner fighting the Soviets did not assist the enemy of his native country,and can not be classified as a collaborator or a person committing acts of "moral turpitude" for these reasons. Furthermore, the Republic of Estonia and its citizens were not members of the United Nations.

Both statutes under which the petitioner's citizenship has been revoked are archaic in nature and have no validity in the present situation, ever since the Soviet Union has been recognized as the main adversary of the United States. To revoke the citizenship of the petitioner at this late date, based on these statutes, is unfair on the grounds that no consideration is given to the status of the Republic of Estonia, its laws, and the wartime conditions to which the petitioner was subject.

The petitioner has been a loyal subject and a person of proven good moral character in the United States for 30 years. To revoke his citizenship on allegations based on outsiders' interpretation of events in the Republic of Estonia, is assuming an attitude which interprets history purely in light of the Second World

War euphoria with the Soviets, or the current expedience to prosecute "Nazi war criminals" for political purposes.

SOVIET OBJECTIVES AND TACTICS

The Soviet Union, specifically the KGB, has carried out operations against ethnic communities in the United States and other countries in the free world for years. This effort takes many forms and covers many activities from propaganda to assassinations. A major thrust is directed towards discrediting the "nationalists" with special emphasis on the Baltic States and the Ukraine whose nationals, in the Soviet mind, constitute a threat to their empire. A new twist on this line was invented by the KGB in the early 1960's when the overall campaign against East European exiles was intensified.

After a silence of more than 15 years, the "war criminals" were suddenly

discovered. A series of trials was launched against individuals "whose whereabouts were not previously known" according to the Soviet claim. It was customary in a given trial to have a mix of defendants. Some were "discovered" locally, others residing in various western countries. The latter were tried in absentia. The entire operation was supported by an intensive propaganda campaign both in the Soviet press, as well as outside through invited foreign journalists and delegations.

It is noteworthy that in Soviet publications, the term "nationalists" received primary mention, e.g. the trials were used as a means to discredit groups and individuals who had fought the Soviets in World War II and were still carrying on this struggle from exile. The objective

was to associate these people with the Nazis and their crimes.

With regard to Estonia, the Soviets covered the major exile groups by initiating trial proceedings agains individuals in England, Sweden, Canada, Australia and the petitioner, K.Linnas, in the United States.

In the trial of the petitioner, K. Linnas, the entire facade was exposed by the bungling editor of the journal "Socialist Legality", who published the statements of the prosecution and the decision before the trial actually took place.

The United States is the only country which has followed the Soviet example by initiating proceedings against any of the aforementioned individuals. All other countries have ignored the Soviet allega-

gations as an illegal attempt to further their aims, and properly so.

Amicus Curiae contends that the Soviet trial of the petitioner was a "sham." Since the same evidence was used in the U.S. District Court as in the Soviet trial, it is unavoidable that if the decision of the lower courts is upheld, the United States will lend credence to the Soviet legal system and its use by the Soviet government to discredit their opponents.

Amicus Curiae also finds that there is considerable inconsistency in Government actions, who in one hand denounce the Soviets for the forgeries and disinformation, and at the same time accept Soviet evidence in this case, as absolutely truthful.

INADEQUACY OF THE DEFENSE

Amicus Curiae contends that the petitioner was unable to provide adequate

defense on some important issues:

a. The petitioner did not discover in time for his trial that the Displaced Persons Commission had deleted Estonian "Selbstshutz" from their Inimical List in 1951, the year the petitioner received his visa for immigration into the United States.

During the trial in the U.S. District Court, the Government claimed, and it was accepted by the Court, that the petitioner was a member of the Estonian "Omakaitse" (Self-Defense), translated into German as the "Selbstshutz". It was further claimed that the "Selbstshutz" assisted Germans in the persecution of civilians.

No testimony was presented on the fact that the Displaced Persons Commission in 1951 no longer considered members of the "Selbstshutz" ineligible for immigration into the United States and it would follow that charges of "persecution" had been found not valid against members of that organization.

b. The petitioner was unable to obtain testimony to the fact that the Tartu "concentration camp" was in effect a temporary detention facility for captured Soviet functionaries, such as members of the paramilitary Destruction Battalions and other communist officials and collaborators suspected

of participation of the murdering or deportation to the Soviet Union thousands of Estonians. Any Jews in that camp were held for the above reasons and not because of race or religion.

The inability to obtain witnesses to present such testimony is the result of an atmosphere of fear in the Estonian community, which has been generated by the Government's well publicized efforts to prosecute "Nazi collaborators." The Government, in the eyes of the Estonians, has failed to recognize the right of the citizens of the Republic of Estonia to fight for their homeland and to punish those

who committed serious crimes against their people.

CONCLUSIONS

In order to serve its intended purpose, the law and its implementing procedures must have a meaning and be understood by the people affected. It is with great regret, we must admit, that millions of East Europeans, both in the United States and in their native countries, can not understand why the Soviet government is allowed to promote their aims of discrediting nationalist independence movements through the United States legal system. The Soviets tactics of forgery, disinformation and the use of false testimony by witnesses who are under their control is well known. We also do not understand what purpose is being served

by going back 40 years to warn torn Estonia, which had just suffered a bloody Soviet occupation, and to allege "persecution" against the petitioner. Where are the statutes and the legal apparatus to prosecute "persecution" by others?

The only reasonable conclusion we can draw is that these are political trials, serving a given political purpose. The overwhelming resources of the Government, the full cooperation of Soviets by providing the necessary evidence, and the denial of jury trial to the accused, renders the outcome of the proceedings predictable.

It is our expectation that this Court will hold the principles of the United States justice paramount, and grant the petitioner a Writ of Certiorari.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I mailed a copy of the Amicus Curiae Brief in support of Petition for a Writ of Certiorari, postage prepaid, to Ivans Berzins, Esquire, 484 West Montauk Hwy., Babylon, New York 11702, and Rodney G. Smith, Trial Attorney and Martha Tally, Trial Attorney, Office of Special Investigations, Criminal Division, Department of Justice, P. O. Box 28603, Washington, D.C. 20005, on the 15th day of July, 1982.

WILLIAM R. KEARNEY

William R. Kearney
Counsel for Amicus Curiae